

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2021-033-10011R

Parcel No. 18-16-200-005

**Gerald and Norlene Buhr,**

Appellant,

vs.

**Fayette County Board of Review,**

Appellee.

---

**Introduction**

This appeal came on for written consideration by the Property Assessment Appeal Board (PAAB) on September 10, 2021. Gerald and Norlene Buhr were represented by attorney Larry Woods; they asked their appeal proceed without a hearing. Fayette County Assessor Vicky Halstead represented the Board of Review.

Gerald and Norlene Buhr own a property located at 4528 Palace Road, Oelwein, Iowa. The property's January 1, 2021 assessment was set at \$269,050, allocated as \$78,780 in land value and \$190,270 in dwelling value. (Ex. A).

The Buhrs petitioned the Board of Review claiming the property was assessed for more than the value authorized by law, the assessment was not equitable as compared with assessments of other like property, and it was misclassified as residential under Iowa Code section 441.37(1)(a)(1)(a-c) (2021). (Ex. C). The Board of Review denied the petition. (Ex. B).

The Buhrs appealed to PAAB resserting the claim the property is misclassified.<sup>1</sup> They believe the property should be classified agricultural.

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2021). PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a).

## **Findings of Fact**

The Buhrs acquired the subject 11.84-acre site in 1971 and built a one-story home in 1972. The dwelling has 1706 square feet of gross living area and a full basement with 600 square feet of minimal finish. There is a 486-square-foot attached garage, and two open porches. The dwelling is listed in good condition with good quality construction (Grade 3-5). In 2010, a 648-square-foot detached garage was added. The site is also improved with a 1152-square-foot machine shed. (Exs. A & C). According to the property record card, the property's classification was changed from agricultural to residential in 2021.

The Buhrs are not protesting the assessed values of the dwelling and improvements. (Ex. C). However, they disagree with the change in classification from agricultural to residential, which resulted in an increase to the land value from \$11,470 to \$78,780. In their opinion, the assessor did not have grounds to change the

---

<sup>1</sup> The Appeal form identifies inequity, overassessment, and error as grounds for the appeal. However, the plain statement clearly indicates these claims all relate to their belief the property is misclassified.

classification and point to several neighboring properties that are agriculturally classified. In their protest to the Board of Review, the Buhrs referred to four neighboring properties separated from the subject property by a fence line to the north, east, and south. (Ex C.). The Buhrs report that these properties range from 27- to 58-acres. Other than listing the properties on their petition, they did not submit any other evidence about the properties such as a property record card or how the properties are actually used. Based on the reported site size and assessed values, it is reasonable to presume they are classified agricultural. Accordingly, the assessed land values are based upon the productivity formula required by Iowa law for agricultural land. § 441.21(1)(e). Residential land is assessed based on market value. § 441.21(1)(b)(1).

The Buhrs assert the subject property should be classified agricultural because there are 11 acres of pasture land that has been used to graze 10 to 12 head of cattle each year. They report an annual income from this use of \$350, but expenses are greater than income for things such as fertilizer and fence upkeep. (Appeal, Ex. C).

The Buhrs did not submit any additional evidence to PAAB.

The Board of Review did not find enough evidence from the Buhrs to establish the primary use of the subject property was agricultural. (Ex. D). Rather, it believed the present use of the property is for residential use. (Ex. D). In the Board of Review's opinion, the annual income from use of the property as pasture was only \$350, and asserts this does not show a primary use for agricultural purposes with an intent to profit.

## **Analysis & Conclusions of Law**

The Buhrs assert the subject property is misclassified as residential and should instead be classified agricultural.

Assessment classifications for property tax purposes are to be determined pursuant to rules adopted by the Iowa Department of Revenue (IDR). Iowa assessors are to classify and value property following the provisions of the Iowa Code and administrative rules adopted by IDR, and must also rely on other directives or manuals IDR issues. Iowa Code §§ 441.17(4), 441.21(1)(h). IDR has promulgated rules for the

classification and valuation of real estate. See Iowa Admin. Code r. 701-71.1. The assessor shall classify property according to its present use. *Id.* Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* There can be only one classification per property, except as provided for in paragraph 71.1(5) “b”. *Id.* The determination of a property’s classification “is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). The assessment is determined as of January 1 of the year of the assessment. §§ 428.4, 441.46; Iowa Admin. Code R. 701-71.2. The Buhrs bear the burden to prove the property is misclassified. § 441.21(3). See also *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 at \*2 (Iowa Ct. App. Aug. 7, 2019).

Residential property “shall include all land and buildings which are primarily used or intended for human habitation.” R. 701-71.1(4). This includes the dwelling as well as structures used in conjunction with the dwelling, such as garages and sheds. *Id.*

Conversely, agricultural property includes land and improvements used in good faith primarily for agricultural purposes. R. 701-71.1(3). Land and nonresidential improvements

shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest and fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in the subrule.

*Id.*

In applying the classification rules, we look at the unique facts of each case in order to determine the property’s primary use and correct classification. Here, the subject property has been used as the Buhrs’ residence since 1972.

The Buhrs assert it is also used as pastureland for 10 to 12 head of cattle. It is not clear who owns these cattle, or how often they are located on the property. Further, the Buhrs admit the expenses for the land including fertilizer and fence upkeep

outweigh the income. Because it appears there is no intent to profit from any potential agricultural endeavor, we find the subject property does not qualify for agricultural classification under the first sentence of Rule 701-71.1(3).

This case also brings into question the application of the final sentence of the above rule: Does the subject property qualify as woodland, wasteland, and pasture land that is held or operated in conjunction with agricultural real estate? There is no evidence that the pastureland is held or operated in conjunction with agricultural real estate as required by the Rule. Also, there is no evidence of the use of the machine shed for agricultural purposes as opposed to use in conjunction with the residence. Where there are competing uses occurring on one parcel of property, such as arguably exist here, its primary use determines the property's classification. *Sevde*, 434 N.W.2d at 880-881.

Although the Buhrs refer to neighboring properties which are agriculturally classified, PAAB has long held such evidence offers little to the analysis of the proper classification of a specific property, like the Buhrs'. As use is the basis for classification determinations, often the record lacks the necessary and complete information to properly compare the use of one property as opposed to another. Here, we have no information about the use of the properties the Buhrs submitted. As noted above, the classification of the Buhrs' property is ultimately to be based on its own primary use when considered against the classification rules.

We find this record lacks sufficient evidence of the property's use, aside from its obvious residential use, to convince us that the subject's present and primary use is agricultural.

Given the limited evidence provided by the Buhrs, we conclude they have not demonstrated the property is primarily used for agricultural purposes with an intent to profit. Thus, the use for pastureland cannot satisfy the requirement it is held or used in conjunction with agricultural real estate. Viewing the record as a whole, we find the Buhrs failed to support their claim that the subject property is misclassified.

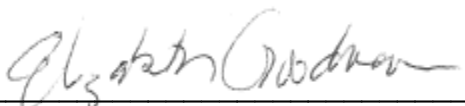
## **Order**

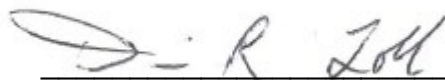
PAAB HEREBY AFFIRMS the Fayette County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2021).

  
Elizabeth Goodman, Board Member

  
Dennis Loll, Board Member

  
Karen Oberman, Board Member

Copies to:

Larry Woods  
24 North Frederick Avenue  
Oelwein, IA 50662

Fayette County Board of Review by eFile